

R E M A R K S

Claims 1, 2, 15, 16, 18-25 and 27 are now in this Application, and are presented for the Examiner's consideration.

Request Acknowledgment of
TWO Prior Filed Information Disclosure Statements

On May 24, 2002, applicant filed an Information Disclosure Statement with five references.

In the Office Action dated December 23, 2003, the Examiner stated that the prior filed Information Disclosure Statement did not comply with the rules because it did not include a concise explanation of the references. However, as earlier submitted in response thereto, it is merely necessary to provide an English-language translation of a foreign Search Report which discusses the relevance of the references. An English language translation of the relevant portions of the German Patent Office search report was filed with the Information Disclosure Statement, which was filed with the Missing Parts of the application. This was received by the Patent Office, as shown as the document entitled "NPL Documents" filed May 30, 2002 on the Patent Office private PAIR website. A second copy of this English language translation was also earlier submitted a second time for the Examiner's convenience.

Although the English language translation of the search report did not list any claims to which the references were related, the translation of the German Patent office search

report did indicate that ALL of the cited references were in category "A" which is defined as part of the technological background. Therefore, the search report indicated that the references were not specifically relevant at all to the invention, but merely disclosing the general state of the art.

According to MPEP Section 609, "where the information listed is not in the English language, but was cited in a search report or other action by a foreign patent office in a counterpart foreign application, the requirement for a concise explanation of relevance can be satisfied by submitting an English-language version of the search report or action which indicates the degree of relevance found by the foreign office. This may be an explanation of which portion of the reference is particularly relevant, to which claims it applies, or merely an "X", "Y", or "A" indication on a search report" (emphasis added).

This is exactly the case here where the English language version of the search report in the corresponding German application provided an indication "A" for each reference.

It is therefore submitted that, according to MPEP Section 609, applicant previously satisfied its requirement for a concise explanation, and the Examiner is requested to enter and consider the references in the Information Disclosure Statement, WITHOUT ANY FEES DUE BY THE APPLICANT.

However, despite the above, and as a courtesy to the Examiner, the relevance of each of the references cited in the Information Disclosure Statement filed with the application was further discussed on pages 8-9 of the response filed on March 16, 2004.

To date, the applicant has received no acknowledgment of this Information Disclosure Statement, or an initialed copy of the Form PTO-1449.

In addition, in the response filed on March 16, 2004, a second Information Disclosure Statement was included, along with the submission of eleven (11) references and a Form PTO/SB/08A and a Certification, so that no additional fee was required.

To date, applicant has received no acknowledgment of this second Information Disclosure Statement, or an initialed copy of the Form PTO/SB/08A.

The Examiner is therefore requested to provide initialed copies of the Form PTO-1449 and Form PTO/SB/08A from the two Information Disclosure Statements, to show that all references have been entered and considered.

Rejection of Claims under 35 U.S.C. §112

Claims 1, 2, 15-25, 27 and 28 were rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

Specifically, it was stated that the phrase "a supporting element of plastic of adjustable curvature at rods of a lattice mat" in lines 2 and 3 of claim 1 is not clear.

Since the objected to language is in the preamble and since the limitations in the preamble are set out more clearly in the section of claim 1 after "comprising," this preamble language has been deleted, so that the preamble merely recites "A method of producing a lordosis support, comprising the steps of:".

It is therefore submitted that the rejection of claims 1, 2, 15-25, 27 and 28 under 35 U.S.C. §112, second paragraph, has been overcome.

Allowable Subject Matter

It was stated that claims 20-23 contain allowable subject matter and would be allowed if claim 20 is rewritten in independent form to include all of the limitations of claims 1, 17, 18 and 20.

Claim 20 has been so rewritten in independent form.

It is therefore submitted that claim 20 is now in condition for allowance.

Prior Art Rejections

Claims 1, 2, 15, 17, 18, 24-26, 28 and 29 were rejected under 35 U.S.C. §103(a) as being obvious from applicant's

admitted prior art (AAPA), at pages 1 and 2 of the specification.

According to the invention, as now claimed, the rods are directly connected to one another in the mold, but independently of the injection molding process, that is, the rods are not just connected by being embedded in a common plastic member. In the examples disclosed in the description, the rods are either connected by welding (Figs. 4 to 7) or by bending one rod to an eyelet embracing the other rod (Figs. 9 to 11).

The problem solved by the invention is to produce the lordosis support more efficiently.

When an injection mold is used for molding plastics around metal rods, the rods must be held in position within the mold. Similarly, the rods must be held in position in the process of connecting them to one another. The present invention has the advantage that the positioning means that are provided in the injection mold, can also be utilized for holding the rods during the process of connecting them together.

Thus, the present invention is very different from the prior art which includes the steps of positioning the rods in a rig, connecting them by welding or the like, removing the rod assembly from the rig, transferring the rod assembly into the mold and closing the mold. Rather, the process according to the present claimed invention simply comprises the steps of inserting the rods into the mold, connecting them (independently of an

injection molding process therein) in the mold prior to or concurrently with injection molding, so that the process is simplified and accelerated significantly. Another advantage is that the steps of connecting the rods and injection molding can be performed simultaneously or overlapping, so that additional time savings are achieved.

However, in order to do so, the present invention requires specific adaptations to be made to the mold, which adaptations are not common in the art of injection molding, and certainly not within the realm of the AIPA. For example, if the rods are connecting by welding, as in Figs. 4 to 7, the mold must be designed such that the welding positions are exposed even when the mold is closed (Figs. 5 to 7). Similarly, when the rods are connected by bending eyelets, specific bending tools must be incorporated into the mold (Figs. 9 and 10).

In this regard, claim 1 has been amended to incorporate the limitations of claims 17 and 28, and now recites the step of connecting together the transverse rods and longitudinal rods in the injection mold, independently of an injection molding process therein.

The Examiner, in relation to claim 17, states that "connecting the transverse rods and the longitudinal rods in the mold is an obvious matter of design choice wherein no stated problem is solved or unexpected results obtained in connecting

the transverse rods and the longitudinal rods in the mold versus connecting them before introducing them in the mold."

As to the statement that no stated problem is solved, the Examiner's attention is directed to the discussion above. Further, the specification discusses this aspect. Specifically, at page 1, last paragraph, in regard to EP-A-0 780 262, it is stated that "For the production, the lattice mat and the supporting element initially are produced as separate components."

As to the "unexpected results," the specification states that because the rods are introduced in an injection mold for the supporting element and are embedded in the supporting element during the injection molding of the latter, that is, since the production of the supporting element and its fastening to the lattice mat are integrated into a single step, the number of working and handling processes is reduced, simplify the manufacture and fastening of the lordosis support to the lattice mat. Moreover, by embedding the rods of the lattice mat in the plastic of the supporting element, an extremely stable fastening is achieved. See page 2, lines 4-13 of the specification.

It is submitted that a person of ordinary skill in the art would use an injection mold only for the purpose for which it is intended, that is, for molding, and would not consider adaption of the mold in such a way that the connection process can also be

performed while the rods are positioned and held in the mold.

This aspect of the present invention is clearly not disclosed or even remotely suggested by the AAPA, nor by any of the other cited references.

Further, if this were such an obvious matter of design choice, there would be at least one reference showing the same, particularly in view of the advantages noted above. If the Examiner disagrees, the Examiner is requested to provide at least one reference which shows this claimed aspect of the present invention.

Clearly, the AAPA does not disclose or even remotely suggest this aspect.

Accordingly, it is respectfully submitted that the rejection of claims 1, 2, 15, 17, 18, 24-26, 28 and 29 under 35 U.S.C. §103(a), has been overcome.

Claim 18 was rejected under 35 U.S.C. §103(a) as being obvious from applicant's admitted prior art (AAPA) in view of Japanese Patent Publication No. JP 62-92817 to Hosoi.

The remarks made above in regard to the AAPA are incorporated herein.

First, Hosoi fails to cure the deficiencies noted above with regard to the AAPA. Specifically, there is no teaching in Hosoi of connecting together rods in a mold independently of an

injection molding process therein and also using the mold for a molding operation. Therefore, even if Hosoi is combined with the AAPA, the limitations of claim 1, from which claim 18 depends would not be disclosed or even remotely suggested.

Further, claim 18 recites the step of pushing the longitudinal rods into longitudinal grooves of the injection mold as straight rod endless material.

Hosoi does not teach pushing part 11 in the mold as straight rod endless material. As can be seen from Fig. 1 and as described in the Abstract, an insert plate 13 having inserts 12 extending from it is inserted in a resin molder. Figure 1 clearly shows that an insert 12 lies behind the plane of the drawing, whereas the base 11 extends perpendicular to the plane of the drawing, that is, they are perpendicular to each other, and therefore, cannot be straight rod endless material. As described in the Abstract, a cutter 25 descends so as to cut the base 11 of inserts 12 at the edge 11a. Obviously, base 11 has many inserts 12 extending from it. Therefore, the inserts 12 are not straight rod endless material, as recited in claim 18.

These same comments were previously made in an earlier response, and no specific rebuttal or indication was made to refute the same.

Accordingly, it is respectfully submitted that the rejection of claim 18 under 35 U.S.C. §103(a), has been overcome.

Claims 19 and 27 were rejected under 35 U.S.C. §103(a) as being obvious from applicant's admitted prior art (AAPA) and Japanese Patent Publication No. 62-92817 to Hosoi, as applied above, and further in view of Japanese Patent Publication No. JP 1-214417.

The remarks made above in regard to the AAPA and Hosoi are incorporated herein.

However, JP 1-214417 fails to cure the aforementioned deficiencies of AAPA and Hosoi, as discussed above, and for the same reasons, it is submitted that claims 19 and 27 distinguish from these references. JP 1-214417 merely puts a crimp in a material, but there is no disclosure or even a remote suggestion of connecting together the transverse rods and longitudinal rods in the injection mold.

Accordingly, it is respectfully submitted that the rejection of claims 19 and 27 under 35 U.S.C. §103(a), has been overcome.

Claims 1, 2, 15, 17, 18, 24-26, 28 and 29 were rejected under 35 U.S.C. §103(a) as being obvious from applicant's admitted prior art (AAPA) in view of U.S. Patent No. 4,722,821 to Vermilye or U.S. Patent No. 5,609,652 to Yamada et al.

The remarks made above in regard to the AAPA are incorporated herein.

Further, the Examiner admits that Vermilye and Yamada et al only teach connection of the transverse rods and the longitudinal rods before introducing them into the mold. See page 6, lines 11-12 of the present Office Action. As such, the Examiner admits that neither Vermilye nor Yamada et al cure the aforementioned deficiencies of AAPA in which the connection occurs in the same mold used for the molding operation, with the consequent advantages.

Accordingly, it is respectfully submitted that the rejection of claims 1, 2, 15, 17, 18, 24-26, 28 and 29 under 35 U.S.C. §103(a), has been overcome.

Claim 18 was rejected under 35 U.S.C. §103(a) as being obvious from applicant's admitted prior art (AAPA), Vermilye and Yamada et al, as applied above, and further in view of the Japanese Patent Publication to Hosoi.

The remarks made above in regard to the AAPA, Vermilye, Yamada et al and Hosoi, are incorporated herein.

Since none of these references disclose or even remotely suggest the connection of the transverse rods and longitudinal rods in the same mold used for injection molding, it is respectfully submitted that the further rejection of claim 18 under 35 U.S.C. §103(a), has been overcome.

Claims 19 and 27 were rejected under 35 U.S.C. §103(a) as being obvious from applicant's admitted prior art (AAPA), Vermilye, Yamada et al and the Japanese Patent Publication to Hosoi, as applied above, and further in view of the Japanese Patent Publication '417.

The remarks made above in regard to the AAPA, Vermilye, Yamada et al, Hosoi and Japanese Patent Publication '417, are incorporated herein.

Since none of these references disclose or even remotely suggest the connection of the transverse rods and longitudinal rods in the same mold used for injection molding, it is respectfully submitted that the further rejection of claims 19 and 27 under 35 U.S.C. §103(a), has been overcome.

If the Examiner has any comments, questions, objections or recommendations, the Examiner is invited to telephone the undersigned at the telephone number given below for prompt action.

In the event that this Paper is late filed, and the necessary petition for extension of time is not filed concurrently herewith, please consider this as a Petition for the requisite extension of time, and to the extent not tendered by check attached hereto, authorization to charge the extension fee, or any other fee required in connection with this Paper, to

Account No. 07-1524.

The Commissioner is authorized to charge any additional fees which may be required, or credit any overpayment to Deposit Account No. 07-1524.

In view of the foregoing amendments and remarks, it is respectfully submitted that Claims 1, 2, 15, 16, 18-25 and 27 are allowable, and early and favorable consideration thereof is solicited.

Respectfully submitted,



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